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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,674	11/26/2003	Rachel Hughes	HAW11032	5632

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EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,674

Applicant(s)

HUGHES, RACHEL

Examiner

Jeff H. Aftergut

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1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-26-03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, are drawn to a product, classified in class 428, subclass 15.
 - II. Claims 9-16, drawn to a method of manufacture, classified in class 156, subclass 61.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the infant care item could be formed into a configuration to simulate a flower prior to securing each item to the elongated support structure. Additionally the method does not require that the flowers be gathered at their base to form the bouquet but rather could be gathered at the midsection thereof for formation of the bouquet.
3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Harold Williamson on February 7, 2006 a provisional election was made without traverse to prosecute invention II, claims 9-16. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 1-8 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Australian Patent 2002100147 (abstract from Derwent as well as the Figures provided by Australian Patent Office).

Australian Patent '147 suggested that it was known to form an artificial flower by providing an infant care item 2 like a sock or a bib and providing an elongated bendable support 1. the infant care item was secured to the end of the bendable support by wrapping from one end the sock about the bendable support in order to secure the flower as well as configure the sock or clothing item into a bud of a flower to simulate a flower on a stem.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Australian Patent 2002100147 (abstract from Derwent as well as the Figures provided by Australian Patent Office) in view of Patterson optionally further taken with Tilles.

Australian Patent '147 suggested the overall operation but failed to expressly state that the article of clothing would have been secured to the end of the elongated stem component (other than via the wrapping of the material thereabout to secure the same). The applicant is advised, however that one skilled in the art at the time the invention was made would have incorporated a means to couple the elongated stem component to the fabric clothing component in light of the teachings of Patterson.

Patterson suggested that one skilled in the art at the time the invention was made to incorporate an elongated stem portion 2 and to wrap the bendable elongated stem component 2 about a ribbon of material 1 and to twist the end of the wire stem 2 about the edge of the ribbon in order to secure the ribbon to the stem component and couple the same. Subsequent to the coupling of the stem component to the ribbon, one wrapped the ribbon component about the stem component in order to form the artificial flower from the ribbon and stem arrangement in a similar manner to the wrapping of the sock of Australian Patent '147 about the elongated stem support therein. One skilled in the art at the time the invention was made would have found it obvious to physically couple the article of clothing to the stem in the manufacture of an artificial flower in order to make sure that the item was retained upon the stem of the flower as suggested by Patterson in the artificial flower arrangement made by Australian Patent 2002100147 (abstract from Derwent as well as the Figures provided by Australian Patent Office).

With regard to claim 9, the applicant is advised that it was conventional to form a bouquet from plural flowers into a desired arrangement. Additionally, note that one skilled in the art would not have given a single sock as a gift but rather would have given at least a single pair of socks. Making two flowers from a single sock pair and giving the two flowers together as a gift would have been provision of a bouquet of the flowers. Regarding claims 10 and 14, note that the references suggested that the baby care item like a sock would have been spread out and that one would have secured the end of the sock to the stem portion as proposed by Patterson. Regarding claims 11 and 15, note that as depicted in Figures 2-4 of Australian Patent '147 one skilled in the art would have desired to shape the sock arrangement so that the portion attached to the end of the stem would have been drawn down onto the stem portion. The reference to Patterson suggested such a means of securing the lower end of the artificial flower component to the stem with a thread such as thread 7. the ribbon is thereby allowed to take the configuration of a flower. Regarding claim 16, one skilled in the art would have understood how to manipulate a pair of socks to obtain the desired length of the same for rolling would have understood to place one sock into the other sock prior to the rolling operation in Australian Patent '147. Additionally note that one skilled in the art giving the flower bouquet as a gift would have understood that the flowers would have been assembled as sock pairs as one would not desire to give single socks for the flowers to the child. As such, it would have been obvious to assemble one sock into the other prior to the rolling operation in order to ensure that a sock pair was given as a gift

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and to provide additional material for the rolling operation to make a better floral assembly.

While the references as set forth above suggested that one skilled in the art would have formed a flower from an infant's clothing like a sock, the references do not expressly suggest that one skilled in the art would have arranged the same into a bouquet. However, arrangement of socks into floral bouquets was known at the time the invention was made as evidenced by Tilles. More specifically, Tilles suggested that those skilled in the art would have formed a bouquet of artificial flowers from rolled up stockings or other articles of clothing and assembled the same into a bouquet. As it was well known at the time the invention was made to form a bouquet from a bunch of arranged single flowers from articles of clothing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the flowers made in accordance with Australian Patent '147 as modified by Patterson and assembled a plurality of these flowers together into a bouquet of clothing as suggested by Tilles.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Standley suggested a process for making a floral assembly from a strip of fabric material which was rolled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
March 20, 2006